

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Robinson property

DEPARTMENT: County Attorney's Office

DIVISION: Litigation

AUTHORIZED BY: Lola Pfeil

CONTACT: Sharon Sharrer

EXT: 7257

MOTION/RECOMMENDATION:

Robinson property. Approve proposed pre-trial settlement relating to Parcel Number 123 on the County Road 15 road improvement project. The proposed settlement is at the total sum of \$169,928.25 inclusive of all compensation to the owner, attorney fees of any kind, all costs, interest, and any other matter for which Seminole County might be obligated to pay relating to this parcel. Judge Dickey.

District 5 Brenda Carey

Robert A. McMillan

BACKGROUND:

see attached

STAFF RECOMMENDATION:

Staff recommends the Board approve the proposed pre-trial settlement relating to Parcel Number 123 on the County Road 15 road improvement project. The proposed settlement is at the total sum of \$169,928.25 inclusive of all compensation to the owner, attorney fees of any kind, all costs, interest, and any other matter for which Seminole County might be obligated to pay relating to this parcel.

ATTACHMENTS:

1. Robinson property

Additionally Reviewed By: No additional reviews



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Matthew G. Minter, Deputy County Attorney *Matthew G. Minter*

FROM: David G. Shields, Assistant County Attorney *David G. Shields*
Ext. 5736 *80005801*

CONCUR: Pam Hastings, Administrative Manager/Public Works Department
Antoine Khoury, P.E./Assistant County Engineer/Engineering Division *AK 9-30-08*

DATE: October 3, 2008

RE: Settlement Authorization
County Road 15
Parcel No. 123; Patricia A. Robinson
Seminole County v. Timothy A. Waddle, et al.
Case No. 2007-CA-1604-0111-13-W

This Memorandum requests settlement authorization by the Board of County Commissioners (BCC) for Parcel No. 123 at \$169,928.25 inclusive of all compensation to the owner, attorney fees of any kind, all costs, interest and any other matter for which Seminole County might be obligated to pay relating to this parcel. The case was set for trial on October 20, 2008, and settlement was reached after completion of pre-trial depositions

I. THE PROPERTY:

A. Location Data

The subject property is located at the northeast corner of C15 and Iowa Street in a portion of unincorporated Seminole County. A location map is attached as Exhibit A.

B. Property Address

The street address is 521 Monroe Road, Sanford, Florida 32771. A parcel sketch is attached as Composite Exhibit B.

II AUTHORITY TO ACQUIRE.

The BCC adopted 2007-R-71 on April 10, 2007 authorizing the acquisition of Parcel No. 123. The C15 road improvement project was found to be necessary and serves a public purpose and in the best interests of the citizens of Seminole County.

The Order of Take occurred on August 27, 2007, with title vesting in Seminole County on September 4, 2007, the date of the good faith deposit in the amount of \$62,000.00 for this parcel.

III ACQUISITIONS AND REMAINDER

The acquisition of Parcel No. 123 is 8,183 square feet in fee simple from a parent tract of 64,198 square feet with a remainder of 57,445 square feet.

IV APPRAISED VALUES

The County's original report dated September 29, 2006, was prepared by Florida Realty Analysts, Inc. The appraisal report opined full compensation to be \$52,000.00. The updated report for the order of take hearing dated July 25, 2007, opined \$55,300.00. The trial appraisal dated September 19, 2008 reported the same compensation as the update appraisal. By agreement of the parties, \$62,000.00 was deposited as the "good faith estimate of value" based on the County's first written offer.

The property owner's appraisal report prepared by Erickson Appraisers, Inc. opined the value of Parcel No. 123 at \$226,000.00. The owner's trial appraisal opined the value to be \$375,000.00.

V BINDING OFFER/STATUS OF THE CASE

The County's initial written offer was \$62,000.00 exclusive of costs and attorney fees. The owner's initial position exclusive of costs and attorney fees was the \$226,000.00 appraisal amount. The owner's appraisal updated for trial was \$375,000.00 and the owner increased her position to that amount exclusive of costs and attorney fees. After extensive negotiations, the parties agreed on \$130,000.00 as the owner's compensation exclusive of costs and attorney fees.

VI ATTORNEY'S FEES AND COSTS.

A. Attorney's Fees. The statutory attorney's fee reimbursement totals \$22,440.00. The sum is statutorily computed based upon a settlement sum of \$130,000.00 less a first written offer of \$62,000.00 to produce a benefit of \$68,000.00.

B. Expert's Fees/Costs. The owner's claim of \$17,488.25 for experts' fees and costs are reasonable for the referenced parcel. The breakdown is as follows:

\$7,592.00	Appraiser
\$9,896.25	Engineer

VII COST AVOIDANCE

The difference between the County's \$55,300.00 appraisal value and the owner's \$375,000.00 appraisal value was \$319,700.00. Two major factors accounted

for this difference. One was the differences between the comparable sales selected by the County's appraiser and the owner's appraiser. The other factor was the recommendation from the owner's engineer that fill dirt was needed to prevent drainage problems. The County's engineering expert concluded no fill was necessary.

Both appraisals appear to represent good faith efforts to arrive at a fair valuation. When faced with two "reasonable," but differing appraisals, juries might reasonably be expected to return a verdict around midpoint. The midpoint of the two appraisals is \$215,150.00. A settlement at \$130,000.00 is substantially below midpoint and reasonable under the circumstances of the case. The settlement is also reasonable in that it avoids an additional potential exposure of \$245,000.00 (the difference between the owner's appraisal and the settlement), plus additional costs and attorney fees.

VIII RECOMMENDATION

County staff recommends that the BCC approves this pre-trial settlement at \$169,928.25 inclusive of all compensation to the owner, attorney fees of any kind, all costs, interest and any other matter for which Seminole County might be obligated to pay relating to this parcel

DGS/dre

Attachments

Exhibit A – Location Map

Exhibit B - Sketch

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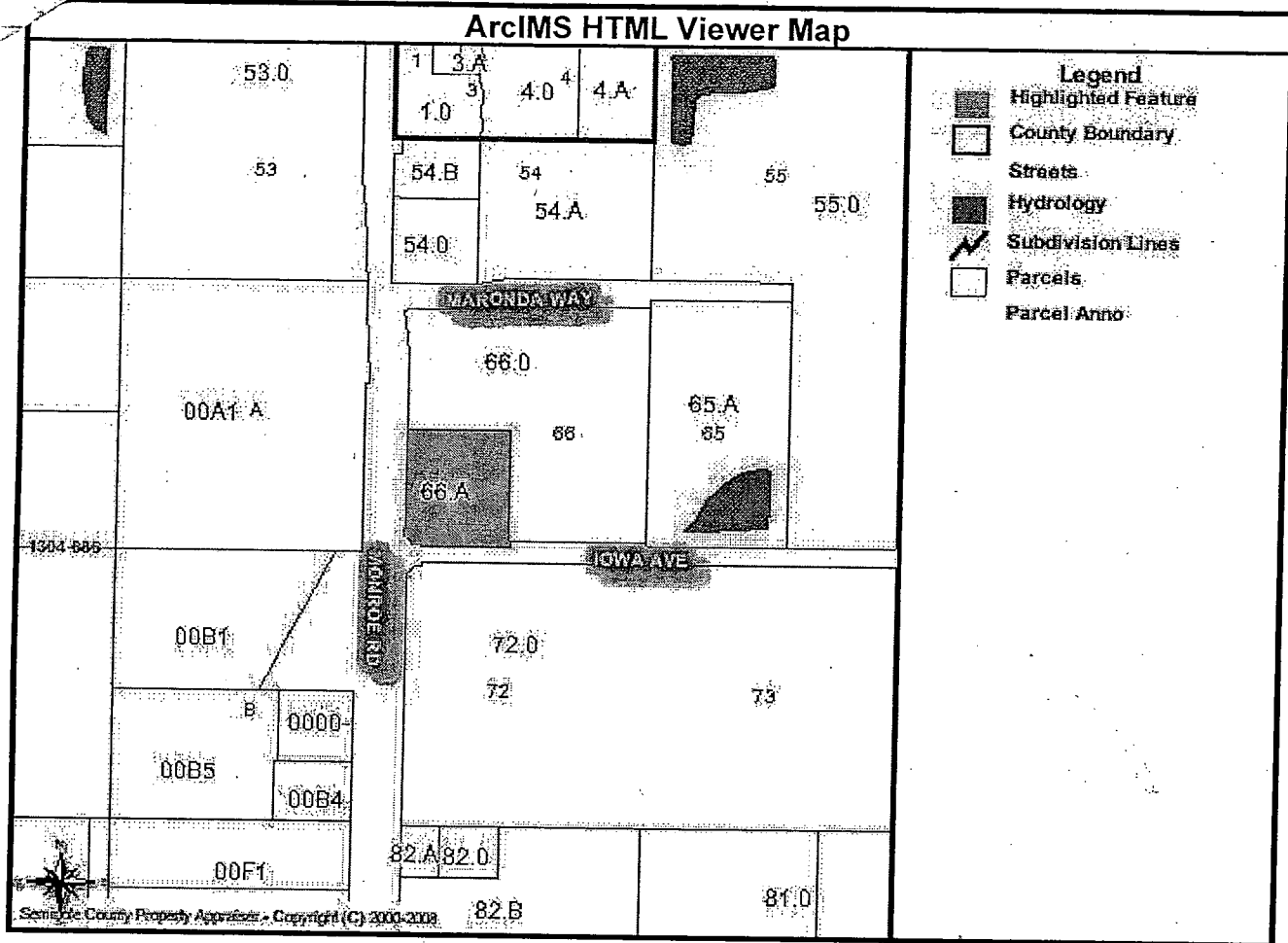


EXHIBIT A

